

MEDIATOR EXCELLENCE COUNCIL
Meeting Summary
May 7, 2007

Present: Ramona Buck, MACRO; Lorig Charkoudian, Community Mediation Maryland & Definitions Task Group; Lou Gieszl, MACRO; Nancy Hirshman, MCDR; Pat Jackson, Consumer; Cheryl Jamison, Staff to the MEC; Martin Kranitz, Evaluation Task Group; Rich Melnick, Grievance Task Group; Jonathan Rosenthal, Vice Chair of the MEC & District Court; Tara Taylor, Chair of the MEC & Roster Managers, Toby Treem Guerin, Mentoring Task Group; Mae Whitehead, Consumer Awareness Task Group; Rachel Wohl, MACRO.

Next Meeting: Monday, July 2 1:30 p.m. – 4:00 p.m. at MACRO (Decided by email after the meeting)

1. MEC Retreat – Possible Date – September 14 or 28, 2007

Tara discussed having a one day retreat for MEC members to give the Council an opportunity to fully discuss some policy issues without the 2.5 hour time restraint. Council members were provided the following issues which were generated in an earlier meeting. Members were encouraged to contact Cheryl to add to the list.

- MPME Standards of Conduct
 - Are they too general to be useful in providing direction to mediators and to the Ombuds?
 - What effect do the Standards have if you belong to another profession with their own standards?
 - Is it clear enough that the Standards do not incorporate Title 17 which prohibits evaluative mediation?
- How do we document and build in for the future that this is and is to remain a collaborative process, no matter who is at MACRO?
- What happens to data collected by the MPME? How should it be stored? How do we protect it? Who is the custodian?
- How can we document things that can support rosters? How to pull them in, how to get started; how to move it forward?
- What is a mediation-related activity?
- Consistent language on what it means to have completed a MPME activity.
- How to keep members focused on continuing improvement?
- How to get the word out about the MPME?
- How to get beyond the question of why should I join and what can it do for me?
- Identify the benefits of the MPME.
- Develop ways to encourage MPME members to use mediation themselves and share the experience.
- Create some type of reward/appreciation system for members.
- Review the MEC's decision making process
- Definition of mediation for task groups

- Timeline for future task group project review
- How do we balance setting high standards, with building consensus and not watering everything down.

2. Report from the Training Task Group – Best Practices for Basic Mediation

Cheryl Jamison presented the proposal from the Training Task Group, in Liz Ribas' absence. Variations of this proposal have been discussed for the last several years. The proposal is below and a summary of the discussion follows. Changes since the last version are in bold.

Maryland Program for Mediator Excellence Mediator Excellence Council May 7, 2007

Proposal by the Training Task Group Best Practices for Beginning Mediation Training

Background Statement

In late 1999, the Maryland ADR Commission, under the leadership of Chief Judge Robert M. Bell, published Join the Resolution, a consensus-based practical action plan to advance the appropriate use of mediation and conflict resolution statewide. There was only one major area in which consensus could not be reached; that was mediator quality assurance. The ADR Commission decided that further study and consensus building was needed on this topic and as a result, MACRO convened a quality assurance committee. The committee members were representatives of the four ADR practitioner groups; the MD Chapter of the Association for Conflict Resolution (ACR), the MD Council for Dispute Resolution (MCDR), Community Mediation Maryland (formerly the MD Association of Community Mediation Centers), the MD State Bar Association's ADR Section and MACRO. The committee, with the participation of hundreds of people from around the state and across the country, collaboratively designed a quality assistance system, called the Maryland Program for Mediator Excellence.

The Maryland Program for Mediator Excellence (MPME) is designed to offer all Maryland mediators opportunities to improve the quality of their practice. The symbol for the Maryland Program for Mediator Excellence (MPME) is a tree with many branches and roots, providing members with stimulating choices to continue their learning, growth and experience as mediators

The Mediator Excellence Council (MEC) is the governing body of the Maryland Program for Mediator Excellence. The MEC is currently comprised of representatives from: the MD Chapter of the Association for Conflict Resolution (ACR); the MD Council for Dispute Resolution (MCDR); Community Mediation Maryland (formerly the MD Association of Community Mediation Centers); the MD State Bar Association's ADR Section and MACRO. There are also representatives from the circuit and district courts, a roster program and a consumer representative. The Chair of each of the MPME Task Groups also sits on the council.

PREAMBLE

The Training Task Group has as its goal the development of Best Practices for **Beginning** Mediation and Advanced Mediation Training. The following Best Practices for Basic Mediation is offered by the Maryland Program for Mediator Excellence (MPME) to assist mediation trainers in designing training in **beginning** mediation. It can also serve as one source of information for consumers in Maryland interested in **beginning** mediation training.

The practices articulated in this document represent the acquired wisdom of the mediation community in Maryland and research within the larger mediation community outside Maryland with regard to this issue. These best practices emerged through collaborative conversation among Maryland trainers in meetings and discussions hosted by the MPME Training Task Group. It is noteworthy that empirical support for training standards is embryonic, an enterprise ripe for research (see, for example, “Bibliography” to Mediator Quality Assurance: Final Report to the Maryland Mediator Quality Assurance Oversight Committee by Charles Pou, Jr. contact MACRO at 410-841-2260). The best practices represented in this document may be revised as future research develops new knowledge in this area.

It is in the nature of a best practice document to be aspirational. Trainers may not always be able to meet all the best practices indicated here during any particular training. It is hoped that trainers will use this document as both a guideline and an invitation to reflect on possibilities for designing training programs that prepare trainees to mediate competently.

Best Practices for **Beginning** Mediation Training

CLASS SIZE & RATIOS

The following Best Practices are based on a class size that is small enough to allow for individual attention, a safe learning environment, and the greatest opportunity for all trainees to fully participate. They are also based on a class that is large enough to have a variety of participants from various backgrounds that will encourage good discussion and offer enough trainees to be able to practice the skills taught.

Training Component	Best Practice Recommendations
Trainer to trainee ratio	1:12 trainer to trainee/participant ratio
Number of coaches for role plays	1 trainer/coach per role play group

TRAINING TIMEFRAME

The Best Practices time frame recommendations reflect the concern that knowledge be taught in a manner that helps trainees move as quickly from the classroom to actual mediating as possible, reflecting the view that mediation is a craft best learned by practicing the skills taught. They also reflect the knowledge that training can be presented in a variety of formats, including but not

limited to multiple stage **beginning** training, semester long courses, multiple weekends, and week long intensives or in multiple courses.

Training Component	Best Practice Recommendations
Training Hours	40+ hours of total classroom training
Timeframe in Which Training Occurs	The 40+ hour total classroom training should be completed within <i>120 calendar days</i>
Link with Practical Mediation Experience	Trainers or training programs should provide a link between classroom training and practical experience such as observations or other opportunities .

CURRICULUM

Best Practices for training curriculum recognizes there are a variety of skills and lessons taught in mediation training courses. Trainers and training programs should be aware of the diversity and differences among trainees and clients and adapt their programs accordingly.

Training Component	Best Practice Recommendations
Mediation Orientation	An explanation of the mediation style/orientation/methodology based on the particular process that is being taught in the course
Overview of ADR	<p>This should include:</p> <ul style="list-style-type: none"> History of ADR Mediation Landscape: Information on national, state and local practitioner groups, resources and networks and practice opportunities in the field, in writing when possible. Training should emphasize that Beginning Mediation Training is only the first step on the journey to quality mediation. Training should also emphasize the need for continuing education, training and practical experience. Overview of ADR processes including arbitration, mediation, settlement conference, neutral case evaluation, conciliation, litigation (if helpful, refer to

	<p>ADR definitions in the Maryland ADR Commission report and other sources.).</p> <ul style="list-style-type: none"> ▪
Ethics and Standards	<ul style="list-style-type: none"> ▪ Approved MPME Maryland Standards of Conduct for Mediators to be presented to trainees verbally and in writing. The Standards include sections on: <ol style="list-style-type: none"> 1. Self Determination 2. Impartiality 3. Conflicts of Interest 4. Competence 5. Confidentiality 6. Quality of the Process 7. Advertising and Solicitation 8. Fees and Other Charges 9. Advancement of Mediation Practice <p>(See the approved MPME Maryland Standards of Conduct for Mediators)</p> <ul style="list-style-type: none"> ▪ The trainees to participate in role plays specifically crafted to address more than one ethical dilemma and have structured processing sessions afterwards to discuss and debrief. ▪ The ethical standards also to be woven throughout the beginning mediation training in discussion, examples and exercises. ▪ Trainers should make trainees aware that standards and practices vary across venues. ▪ Trainers preparing trainees for a specific venue should cover the standards of that venue in the training.
Mediator Skills & Techniques	<p>Examples: Listening; Reframing; Open ended questioning; Reflecting; Summarizing; Verbal and nonverbal communication; Feedback; Barriers to communication; Identification of feelings, positions, values, interests and issues; Brainstorming; Problem-solving; Negotiation; Empowerment; Power dynamics; Use of Separate Sessions; Screening cases for violence/abuse issues; Writing agreements; Conflict de-escalation, Anger management, etc.</p>

Theory	Examples: Philosophy of particular mediation frameworks; Self-determination; Styles of communication and conflict; types of conflict; Different conflict resolution theories; Social, anthropological and/or related legal studies or theories.

TRAINING TECHNIQUES

People learn in different ways. To meet Best Practices recommendations trainers should use a variety of training techniques, learning styles, and presentation formats to effectively connect trainees with the principles of **beginning** mediation. Techniques used should develop skills identified in the previous curriculum section as well as encourage community building, risk-taking, and self-reflection. One of the most important techniques is role-play, as it gives trainees practical experience in mediation. Acknowledging that different trainers will have varying definitions of the components of a role-play, specific components of Best Practices should include the following:

Techniques:

An **experiential training technique or exercise** is a structured activity that focuses on a particular component of the training, that involves the trainees and that requires interaction between individuals.

Training Component	Best Practice Recommendations
Training techniques which should be included in the training	Demonstration, Discussion, Feedback, Lecture, Questions & Answers, Mediation Role Plays
Percentage of Experiential Training Techniques	More than 50% of the training techniques should be experiential, including role plays. Examples of experiential techniques include: small and large group activities, mock practice sessions, partner feedback sessions, skill drills
Other Techniques for Possible Inclusion	Videos, read-arounds, writing and reading assignments, storytelling

Role-Plays:

A **mediation role play** is an experiential exercise in which all or some aspects of a mediation are simulated and in which one or more trainees play the mediator and one or more trainees play the disputant(s) in a conflict.

Training Component	Best Practice Recommendations
Number of Role plays	Each trainee should participate in no fewer than four role plays, one of which should be a full mediation role play in the role of mediator. A full mediation role play includes all components and/or steps of the mediation process being taught.
Participation in the Mediation Role plays	A variety of topics/themes/levels of conflict & ethical situations should be used in the role plays.
Number and role of coaches	There should be 1 trainer/coach per role play group to provide oral feedback. Each trainee should be observed in the role-plays and receive feedback from at least two trainers/coaches throughout the course of the training throughout the training course.

COACHES

Training Component	Best Practice Recommendations
Selection of Coaches	Coaches should be experienced mediators and should be selected by the trainer(s).
Preparation of Coaches	Coaches should have previous experience in coaching with the trainer(s) or should participate in a pre-briefing session with the trainer(s) to coordinate coaching requirements, style and feedback.
Activities of Coaches	Coaches should offer clear feedback to trainees, identifying strengths and specific action steps for areas needing improvement. Coaches should also give clear feedback to the trainer about the observed trainees.

EVALATION PROCESS

Evaluation refers to two distinct types of evaluation, (a) feedback given to the trainee from the trainer/coach regarding the trainee's progress and (b) feedback received by the trainer from trainees about the quality of the training.

Training Component	Best Practice Recommendations
Feedback to Trainees	<p>Trainers and/or coaches *(see coaches section) should give feedback to each trainee, indicating the trainee's strengths and areas to focus on in the future, throughout the training.</p> <p>At the end of the training the team of trainers/coaches could give comprehensive feedback to each trainee.</p> <p>Trainers could provide trainees with a self evaluation form to be completed by the trainee at the end of the training.</p>
Feedback to Trainers	<p>At the conclusion of the training, the trainer should provide a training evaluation form to the trainees for their written feedback. This feedback can help determine if the trainer's learning objectives were met, and can provide guidance for improving future trainings.</p>

Currently individual trainers and/or programs may develop their own evaluation forms. The MPME Training Task Group anticipates that it will work with the MPME Evaluation Task Group in the future to develop some suggested questions, forms and trainee self-evaluation forms as a resource for trainers.

Review Process

The MEC shall review these standards annually. Such review shall include a report from the Training Task Group and the Quality Assistance Director. The MEC can request a review at anytime it deems necessary.

END OF PROPOSAL

Here is a summary of the discussion which took place:

- The major portion of the discussion dealt with the name of the document – Best Practices for Beginning Mediation Training – and if the document represented what the group believed to be “best practices.” Comments included:

- These are not best practices in that most experienced trainers will believe they are already doing what is in the document. There is nothing in the document for them to aspire to and this is disappointing.
- These are not best practices. They are a consensus of what trainers are doing in Maryland. Maybe we should develop a guide showing how each trainer handles the various components listed in this document. A consumer could compare the various methods and decide which training program works best for them.
- Just because trainers are doing these things does not make it quality or best practices.
- There are some areas in the document that are best practices and some areas which are not.
- Best practices should push people to strive for something and this document does not do that, maybe it should be called guidelines and not best practices.
- The name depends on how we intent to use it. Maybe this is a guide for new trainers.
- No matter what we call it, agencies/organizations looking for meditation trainers will use this as a guide – no matter what we call it. This is part of the concern with calling it best practices. It is doubtful that those looking for a trainer will understand that these are aspirational and therefore a trainer is not likely to meet all of them.

The MEC decided that the document should not be called “best practices” but was unable to decide what to call it.

Other Comments

- Page 3 – Training Component; Training Hours – “40+” this should probably read “40 or more”.
- Page 3 – Training Component, Timeframe in Which Training Occurs – “40+” change to “40 or more” as above.
- Page 3 - Training Component, Timeframe in Which Training Occurs – “...training should be completed within 120 calendar days.” There was concern that this was too long – this is okay for semester courses but not for a general setting.
- Page 3 – Curriculum – There is no diversity of any kind in the curriculum. Members of the Diversity Task Group were surprised that in a 40 hour class, diversity is not a topic. Seems like standards coming from the MPME should include diversity.
- Page 3 – Overview of ADR, 4th bullet, delete “litigation”
- Page 4 – Mediator Skills & Techniques – “Examples” this did not sound right, perhaps it should be “examples, such as:” or “include, but not limited to:” or “this is not an exhaustive list”

- Page 4 same section – Maybe we should look at the results from the Definition Task Group and see if we could use the things mediators said were common to all – it would be good to find a way of using that information in this document.
- Page 6 – Training Component – Participation in the Mediation Role Plays – cultural and other diversity issues should be added.
- Page 7 – Training Component – Feedback to Trainees – “At the end of the training the team of trainers/coaches could give comprehensive feedback to each trainee. Some felt the word “could” needs to be changed to “should.”
- Page 7 – Review Process – Should add some language that states that the Training Task Group, when making its report to the MEC should review the Ombuds report for any relevant issues that might be present.

The MEC thanked the members of the Training Task Group for all of their energy, hard work and perseverance as they labored on these standards. Their labor is greatly appreciated and even though we did not create best practices, this is an important step in that direction and is pretty remarkable since it applies to different venues and different approaches.

The MEC decided to turn the document over to Cheryl to work out the remaining issues and bring back the document for final review and approval. The Training Task Group will move to their next task, developing training standards.

3. Update on the Diversity Task Group

Cheryl provided a brief update on the Diversity Task Group indicating that the group is still in the process of learning about the MPME. It was pointed out that this is the first task group to be comprised of people who were not intimately involved with the development of the MPME and because of that more work is needed to familiarize them with the other parts of the program. The Task Group will be developing a workshop for MPME members on diversity as well as a library of diversity exercises that can be used by those convening a meeting.

4. Report from the Nuts and Bolts Committee – Mediation-Related Activities

Jonathan presented the proposal from the Nuts and Bolts Committee on defining Mediation-Related Activities. He reminded the Council that MPME members make a commitment to complete four (4) mediation-related activities each year and during an earlier meeting, there was discussion and a request for the Nuts and Bolts Committee to bring back a proposal. There are actually 5 proposals being presented and number 6 could actually be added to any of the others. The first proposal is currently what is included in the MPME Membership Invitation. The proposal is below and a summary of the discussion follows.

Maryland Program for Mediator Excellence
Mediator Excellence Council
May 7, 2007

Mediation – Related Activity
Nuts and Bolts Committee

Proposed Options for defining Mediation – Related Activities

1. Keep the language as it currently appears on the Membership Invitation and review once the annual activity reports start coming in. The current language on the Membership Invitation is:

I commit to participate in at least four (4) activities per year, that fall within the broad categories that are represented on the branches and leaves of the MPME Tree. Included activities are those:

- listed in the membership packet;
- listed on the MPME website; and
- any activity that falls within the broad descriptions on the branches and leaves of the MPME Tree.

I will complete and return the form provided by the MPME to list the activities I have participated in during the past year. The MPME will acknowledge the activities of each member annually.

2. Keep the language above, adding the following sentence:

A mediation related activity is one which has the intention that the mediator will take away new or improved knowledge or practices, skills, techniques or strategies.

3. The goal or intent by the mediator in participating in the activity is to improve the mediator's skills, techniques or strategies.
4. The material or experience offered creates new skills or enhances the mediator's practice.
5. The goal or intent of the activity as defined by the mediator is to improve the mediator's mediation practice.
6. Add: the length of time must be a minimum of 90 minutes

END OF REPORT

Here is a summary of the discussion which took place:

- Proposal Number 3 – would like to see the word “knowledge” added.
- Seems like Number 1 is broad enough to include just about anything. Maybe we should wait and see how it goes the 1st year and then see if we need to make a change and what that change might be.
- Since it is on the current form and people have committed to it, maybe we should leave it as is. Perhaps we could add more examples or a definition to the form actually used to report the activities since that is when people will really be thinking about it.

The MEC decided to leave the definition on the Membership Invitation in place and review the matter after we have received the mediation activities form and determine, at that time, if changes are needed and what those changes might be.

The meeting ended at 4:00 p.m.